

1 MR. ROBINSON: You're asking him if Heim now
2 that it occurred --

3 MR. HARTMAN: No, that Heim knows that
4 operators of press brakes get their hands and other
5 body parts caught in the dye area.

6 MR. ROBINSON: In 1978 when he was not working
7 there, that's what you're asking for?

8 MR. HARTMAN: He's your designee.

9 MR. ROBINSON: That has nothing to do with your
10 question. You're asking if he knows -- you made a
11 big point of indicating on the record that he would
12 not have known Heim's position as to why certain
13 things have occurred because he doesn't work there
14 in the 1970s. And now you're trying to get
15 information from him on a different issue relative
16 to the 1970s.

17 MR. HARTMAN: Paul --

18 MR. ROBINSON: I'm just placing my objection on
19 the record.

20 MR. HARTMAN: Your objection's noted, but
21 you're the one that appointed the man.

22 MR. ROBINSON: That has nothing --

23 MR. HARTMAN: Yes, it does.

24 MR. ROBINSON: Not with your question and the

1 objection.

2 BY MR. HARTMAN:

3 Q. Okay. Sir, was it known in the industry
4 in the -- prior to 1978, that operators of press
5 brakes had their hands caught between the dye and
6 the ram area?

7 MR. ROBINSON: I'll object to the form of the
8 question.

9 THE WITNESS: I believe that was an awareness.

10 BY MR. HARTMAN:

11 Q. Well, that's why they invented presence
12 sensing devices and pull back devices and barrier
13 gates, am I correct?

14 MR. ROBINSON: I'll object and instruct the
15 witness not to answer why some manufacturer may
16 have created those devices. There's no suggestion
17 that Heim has manufactured those devices and I
18 don't think that's an appropriate question.
19 Instruct the witness not to the answer the
20 question, yes.

21 BY MR. HARTMAN:

22 Q. Sir, back in 1978 you were aware of
23 presence sensing devices you indicated earlier,
24 correct?

1 A. Yes.

2 Q. What was the purpose of a presence sensing
3 devices?

4 MR. ROBINSON: Objection to the form.

5 THE WITNESS: I believe the purpose of that is
6 to keep parts, body parts or anything, anything out
7 of the dye area.

8 BY MR. HARTMAN:

9 Q. Including body parts?

10 A. Including body parts, yeah.

11 Q. And with regard to barriers at the point
12 of operation, what was the purpose of a barrier at
13 the point of operation?

14 A. To keep body parts and foreign objects out
15 of the dye space.

16 Q. In 1978 what was the purpose of a two hand
17 pull back?

18 A. To keep -- as the press activated the
19 restraints pulled the operator's arms back away
20 from the ram.

21 Q. And with regard to the two palm switch
22 control, am I correct that the reason you utilized
23 two hands on the two palm control is so that the
24 operator wouldn't inadvertently have his or her

1 hand in the dye ram area of the press brake, am I
2 correct?

3 A. That's correct.

4 Q. Are you aware of what safe distance,
5 safeguarding is?

6 A. I'm aware of it.

7 Q. What is that?

8 A. There is a measurement based upon, I
9 believe, the human motion, which I believe to be 63
10 feet per second, which has to be in conjunction
11 with the ability to stop the press or press back.

12 Q. You have to keep the operator far enough
13 back so that he or she cannot get -- when they
14 operate the machine can't get their hands in the
15 machine before it cycles or how does that work?

16 MR. ROBINSON: How does what work.

17 MR. HARTMAN: The safe distance safeguarding
18 method.

19 THE WITNESS: In the presence sensing if the
20 light beam was broken, the press has to stop within
21 so many milliseconds to prevent a pinch point.

22 BY MR. HARTMAN:

23 Q. So when you have a presence sensing
24 device, the presence sensing device has to be far

1 enough away from the throat so that when the
2 operator hits the beam it will stop the ram before
3 the operator can get his or her body part into the
4 throat, correct?

5 A. That's correct.

6 Q. And all of these devices were being
7 utilized in conjunction with press brakes to
8 protect the operator from inadvertent contact
9 between the dye and the ram area on the press
10 brake, correct?

11 MR. ROBINSON: I'll object to the form of the
12 question.

13 THE WITNESS: I believe that's correct.

14 BY MR. HARTMAN:

15 Q. So operator -- injury to the operator at
16 the point of operation was a concern of the press
17 brake industry in 1978, am I correct?

18 MR. ROBINSON: I'll object to the form of the
19 question. I don't know what you mean by concern.

20 BY MR. HARTMAN:

21 Q. It was something that you all were
22 concerned about?

23 MR. ROBINSON: That didn't help. I'll instruct
24 the witness not to answer that question. You've

1 asked about awareness -- hold on. You've asked
2 about awareness and Mr. Mase has answered your
3 questions. I now think you're being argumentative,
4 and I don't think that's an appropriate question.

5 BY MR. HARTMAN:

6 Q. Okay. Would you agree in 1978 that you
7 knew personally that people were being injured by
8 press brakes at the point of operation because of
9 inadvertently placing a body part between the ram
10 and the dye area and having the machine activated?

11 MR. ROBINSON: Objection to the form.

12 THE WITNESS: Yes.

13 BY MR. HARTMAN:

14 Q. Would you agree that it was known industry
15 wide of that danger?

16 MR. ROBINSON: Objection to the form.

17 BY MR. HARTMAN:

18 Q. You can answer that.

19 A. Yes.

20 Q. Did Heim in the -- prior to 1978 do any
21 study on the effectiveness of the no hands and dye
22 method of safety --

23 MR. ROBINSON: I'll object.

24

1 BY MR. HARTMAN:

2 Q. -- for point of operation protection?

3 MR. ROBINSON: Objection to the form.

4 MR. HARTMAN: What's your problem with the
5 form?

6 MR. ROBINSON: Did Heim do any studies
7 concerning the effectiveness, I don't know what
8 that means.

9 BY MR. HARTMAN:

10 Q. Does Heim know whether or not the no hands
11 and dye rule for point of operator protection was
12 effective in preventing injuries to the operator?

13 MR. ROBINSON: Yeah, same objection. My
14 problem is that you're implying that that is the --
15 are you asking if that's the only method that is
16 used or if there are other methods used by the
17 ultimate user and employers and purchasers of these
18 machines?

19 BY MR. HARTMAN:

20 Q. I'm talking about Heim had a no hands and
21 dye method of -- they'd communicate to the operator
22 as a means of point of operation protection,
23 correct?

24 A. Correct.

1 MR. ROBINSON: That point has been asked and
2 answered and that's very clear.

3 MR. HARTMAN: I understand.

4 BY MR. HARTMAN:

5 Q. Did Heim ever do a study or read a study
6 to determine whether or not that method of point of
7 operation protection worked?

8 MR. ROBINSON: Yeah. And my problem with it is
9 that you're implying that that is the only safety
10 device or safety method that was available to a
11 user and that the employers would have ignored all
12 of their requirements under ANSI and OSHA to
13 provide point of operation safety devices.

14 MR. HARTMAN: I understand. I would ask you to
15 answer the question.

16 MR. ROBINSON: I just want to make sure the
17 Court understands my objection with your question.

18 THE WITNESS: Can you state the question one
19 more time?

20 BY MR. HARTMAN:

21 Q. Did Heim ever do a study to determine
22 whether or not the no hands and dye rule worked to
23 protect operators at the point of operation on
24 press brakes?

1 A. I don't believe there was a study nor am
2 I aware of such a study.

3 Q. Okay. What is the length of the cord on
4 the foot pedal?

5 MR. ROBINSON: When?

6 BY MR. HARTMAN:

7 Q. In 1978.

8 A. I don't know the actual length.

9 Q. Does the length of the foot cord matter?

10 MR. ROBINSON: Is that the end of the question?

11 MR. HARTMAN: Yeah.

12 MR. ROBINSON: Objection to the form. Matter
13 for what?

14 BY MR. HARTMAN:

15 Q. Are there different lengths for different
16 foot pedals?

17 A. No.

18 Q. So all foot pedals are the same length of
19 cord?

20 A. I believe they're all relatively the same
21 length.

22 Q. What would that range be?

23 A. I don't know the actual length, but I'd
24 make an estimate of 10 to 15 feet.

1 Q. Okay. Is there a reason they're not 15 to
2 20 feet?

3 A. I don't know why.

4 Q. Is there a reason why they're not 5 to 10
5 feet?

6 A. I would answer that saying that I think
7 the 15 feet would give it the ability to reach
8 around a certain perimeter or place. I think 5
9 foot would be too short.

10 Q. Okay. To the best of your knowledge is
11 the length of the foot -- of the cord for the foot
12 pedal a safety feature?

13 MR. ROBINSON: Object to the form of the
14 question.

15 BY MR. HARTMAN:

16 Q. Does the length of the cord have anything
17 to do with safety or is it just so you can hook it
18 up in the back of the machine and bring it around
19 to the front?

20 A. I believe there would be -- it would have
21 some relevance for operator positioning for any
22 other activation -- I mean, presence sensing to be
23 a certain distance away from the machine.

24 Q. You'd want it long enough so that you

1 could put a presence sensing device up?

2 A. Yes.

3 Q. Other than that is there any safety
4 component to the length of the cord that you're
5 aware of?

6 A. Not that I'm aware of.

7 Q. Does Heim have a recommendation as to the
8 proper placement of the foot pedal by the operator
9 when they're using the foot pedal to operate the
10 press brake?

11 MR. ROBINSON: I keep asking this, you're not
12 limiting your question to any time frame, you're
13 asking him in 1978 or prior to 1978 I should say?

14 BY MR. HARTMAN:

15 Q. Is there a difference before or after '78
16 as to what Heim would recommend as to the proper
17 placement of the foot pedal?

18 MR. ROBINSON: Objection to the form.

19 THE WITNESS: I don't believe there's a
20 specific, it would have to be in compliance with
21 stopping time of the press which is positioning of
22 the operator in that sense.

23 BY MR. HARTMAN:

24 Q. And I'm sorry. I understand what you're

1 saying.

2 So Heim has no recommendations as to safe
3 placement of the foot pedal by the operator as --
4 while they're operating the machine except that if
5 there's a presence sensing device it has to be on
6 the outside of the presence sensing device?

7 MR. ROBINSON: I'll object to the form of the
8 question.

9 MR. HARTMAN: That was a bad question. One
10 objection is good, I agree that was a bad question.

11 MR. ROBINSON: Once in a while I find one.

12 THE WITNESS: Let me answer the question in
13 this way. That the reason there's not a specific
14 length because we do not know the specific
15 application that's involved so, therefore, it would
16 be inappropriate of us to make such a positioning
17 statement. It would depend upon each individual
18 user in that particular application. And every
19 application changes.

20 BY MR. HARTMAN:

21 Q. Does Heim -- does Heim -- if an operator
22 has a chair and is utilizing a chair as a seat
23 while they're operating the press brake, is that a
24 potential danger to the operator that you're aware

1 of?

2 MR. ROBINSON: In what situation, Mr. Hartman?

3 BY MR. HARTMAN:

4 Q. I'm going to ask you to assume, give you
5 the background of the accident, that Ms. Lindquist
6 was sitting on her chair with the foot pedal in
7 front of her to operate the machine, is that
8 something that would concern Heim as a means of
9 operating the foot pedal?

10 MR. ROBINSON: I'll object to the form.

11 THE WITNESS: I don't believe so.

12 BY MR. HARTMAN:

13 Q. So utilizing a chair or standing up isn't
14 a danger that you're aware of?

15 A. Any position is not a danger as I'm aware
16 of.

17 Q. Okay. So Heim has no recommendation as to
18 whether or not you should use a chair or stand up
19 while operating the food pedal for the press brake?

20 A. No.

21 Q. In 1978 was there a difference between the
22 type of presence sensing devices that could be
23 utilized on a mobile press as opposed to a
24 stationary press? And I'm talking about press

1 brake?

2 A. I'm not familiar with a mobile press.

3 Q. Is the 70-6 press brake considered a
4 mobile press?

5 MR. ROBINSON: I'll object to the form.

6 THE WITNESS: I'm not familiar with the term, I
7 would say, no, it's a stationary machine.

8 BY MR. HARTMAN:

9 Q. Is there such a thing as a mobile press?

10 MR. ROBINSON: Object to the form. He said he
11 doesn't know what you mean.

12 BY MR. HARTMAN:

13 Q. Are any of Heim's press brakes deemed
14 mobile presses?

15 A. I'm not aware of such a machine.

16 Q. So they're all supposed to be put at a
17 particular spot, utilized at that spot and then if
18 you need to move it to another room you have to go
19 through all of the process of completely moving it,
20 it's not meant to be here one day, moved three
21 inches to the right the next, et cetera?

22 A. I don't believe that's the intent.

23 Q. Okay. With regard to this mobile press
24 stationary press, the reason I'm using it your

1 counsel has utilized that term in defining this
2 press, I'm just wondering where it came from, I've
3 never seen it.

4 MR. ROBINSON: I don't think I did use the term
5 mobile myself, but the record will speak for
6 itself. I think I used some other term.

7 MR. HARTMAN: I thought you used mobile. I
8 thought --

9 MR. ROBINSON: I'm pretty certain I did not. I
10 hadn't heard that term until today, I believe.

11 MR. HARTMAN: Well, I wrote it during your
12 deposition of all of the people.

13 MR. ROBINSON: You wrote mobile?

14 MR. HARTMAN: Because I never heard it.

15 BY MR. HARTMAN:

16 Q. All brake presses manufactured by Heim are
17 stationary?

18 A. Correct.

19 MR. ROBINSON: I'll object to the form of that
20 question. I don't know what you mean. The witness
21 has indicated he doesn't know what you mean by
22 mobile. Can it be moved? Are they moved by
23 employers? I think we have evidence in this case
24 that the employer moved it on an occasion. I don't

1 understand how you're using the term mobile. Is it
2 capable of being moved? If that's how you're
3 defining it, I would bet that there's a different
4 answer.

5 MR. HARTMAN: I'm sorry. I was using it as you
6 were using it.

7 MR. ROBINSON: No, you certainly were not using
8 it how I was using it.

9 MR. HARTMAN: I didn't know, I was trying to
10 find out --

11 MR. ROBINSON: He said he does not understand
12 how you're using the term.

13 MR. HARTMAN: It's a stationary press is what
14 he said. I'm happy with that. I'm not calling it
15 anything. I'm calling it what you call it.

16 MS. REPORTER: My paper is running out, my disk
17 is running out and I need to have a break.

18 (Whereupon, a short break was taken.)

19 MR. HARTMAN: Paul, I'm going to refer you to
20 Interrogatory No. 13 in your answer as well, okay?

21 MR. ROBINSON: I don't have. You have to -- I
22 don't know what you're referring to.

23 MR. HARTMAN: I have it.

24

1 BY MR. HARTMAN:

2 Q. My question is earlier we had talked about
3 interchanging the word brake presses and power
4 presses together. And you had indicated that you
5 specifically distinguish between a brake press and
6 a power press, am I correct?

7 A. Yes.

8 Q. Interrogatory No. 13 states, please
9 describe any reports of injury, malfunction or
10 unusual occurrences experienced by the user or
11 other individual which may have allegedly occurred
12 in conjunction with the product or similar
13 products, including a description of the facts and
14 dates. Did you hear that?

15 A. Yes, I heard you.

16 Q. Part of the answer that Heim gave says
17 without waiving these objections the power press
18 was manufactured pursuant to the request of HB
19 Machinery Company and to Heim's knowledge was put
20 to its intended use for over 20 years without any
21 injury or injury or malfunction of any kind. Would
22 you agree that I have read that accurately?

23 A. Yes.

24 Q. Would you agree that at least with regard

1 to Katherine Heim, who's the vice president of
2 Heim, she's interchanged the term press brake and
3 power press?

4 MR. ROBINSON: I'll object to the form of the
5 question. May I see these? If it says power press
6 that would be my error. And I would suggest, in
7 fact, I do see -- well, in the following one we
8 talk about press brake. In 14 we talk about press
9 brake. 15 press brake. So that would just be a
10 typographical error on my part. 12 is press brake.
11 If I went through these I would suggest that you
12 pulled out the only interrogatory that has
13 referenced power press and now are suggesting to
14 this witness that Heim uses those terms
15 interchangeably.

16 MR. HARTMAN: I made no suggestion. I've read
17 exactly the answer to that particular
18 interrogatory. And Katherine Heim signed the
19 verification and has indicated and called the
20 product in question a power press.

21 MR. ROBINSON: Okay.

22 MR. HARTMAN: It may have been called different
23 things at different times, I'm just indicating that
24 this interrogatory utilizes the term power press.

1 MR. ROBINSON: It does in one location, which
2 is my typographical error. And, in fact, the very
3 first one we were asked to describe the product we
4 go through the model 70-6 mechanical press brake
5 and, in fact, it looks like in every single one
6 that I've reviewed so far, this would be every
7 single answer, 2 as I go through it, 3 as I go
8 through it, every single one is referred to as a
9 press brake. So there's no need for you to answer
10 that question as posed. That was very misleading
11 and inappropriate. I want to bring that up to the
12 Court.

13 MR. HARTMAN: What to the Court?

14 MR. ROBINSON: I said I want to bring that up
15 to the Court as to the other answers that all
16 reference press brake and one typographical error
17 that you're attempting to create some issue with.

18 MR. HARTMAN: Well, A, your response to my
19 question is entirely inappropriate.

20 MR. ROBINSON: I don't follow you.

21 MR. HARTMAN: Well, if you would let me finish,
22 then maybe you will. With regard to my reading of
23 the answer that was verified according to Katherine
24 Heim, it's in black and white. I see no notation

1 in the entire document that there's a typographical
2 error there, and until such time I did not know it
3 was a typographical error.

4 MR. ROBINSON: So you just chose the one out of
5 all the others. I understand what you're doing.

6 MR. HARTMAN: Furthermore, you're testifying as
7 to what goes on as inappropriate.

8 MR. ROBINSON: What do you mean?

9 MR. HARTMAN: In reviewing the entire document
10 you have your opportunity --

11 MR. ROBINSON: No, I can't sit here like a
12 potted plant. I need to bring up this tactic that
13 you're using with this witness to the Court. ANSI
14 recognizes the distinction, you are familiar with
15 the distinction, every employee that we have talked
16 with at Corey Manufacturing has referenced the
17 distinction between press brakes and power presses.
18 You've chosen to try to use one answer to suggest
19 that Heim uses the terms interchangeably. You have
20 now been informed that that was a typographical
21 error on my part so we can move on.

22 MR. HARTMAN: Unfortunately you didn't verify
23 the answer.

24 MR. ROBINSON: I'm telling you that's what it

1 indicates and you know that's the case,
2 Mr. Hartman.

3 MR. HARTMAN: I don't know anything. I will
4 take your word at it, the fact that your office
5 made the typographical error. We all do that. All
6 you had to do was say it was yours.

7 MR. ROBINSON: Then you continued to make it
8 sound as though the verification makes this machine
9 a power press as opposed to a press brake. I don't
10 know what you're doing.

11 MR. HARTMAN: You don't have to know.

12 MR. ROBINSON: I think it's important for me to
13 know what you're doing. You may disagree with
14 that. Let's continue, please.

15 MR. HARTMAN: I think it is important for you
16 to represent -- I have no obligation to tell you.

17 MR. ROBINSON: Okay. I don't follow. Let's
18 continue.

19 BY MR. HARTMAN:

20 Q. With regard to press brakes, press brakes
21 are meant for bending, am I correct?

22 MR. ROBINSON: I'm going to object. We have
23 gone through this testimony as to the differences
24 between press brakes and power presses. You've

1 asked this witness those questions earlier and now
2 after the lunch break we're beginning to rehash.

3 BY MR. HARTMAN:

4 Q. Are press brakes made for bending
5 material?

6 A. Primarily for bending.

7 Q. So press brakes are made primarily for
8 bending?

9 A. Yes.

10 Q. Would forming be another function of the
11 press brake, forming material?

12 A. If you presume bending was forming, it
13 would be pretty much interchangeable statements.

14 Q. Can a press brake be used for piercing if
15 the dyes are set up?

16 A. Yes.

17 Q. Can it be set up for cutting material if
18 the proper dyes are utilized?

19 A. If proper dyes are utilized I suspect it
20 would be.

21 Q. What is blanking material, what does that
22 mean?

23 A. Blanking is -- it would be like punching a
24 hole through metal and the piece that falls out is

1 known as the blank.

2 Q. Do you agree that with regard to your OBI
3 presses that they're a general purpose machine for
4 work involving blanking, bending and shallow
5 drawing?

6 A. I would, yes.

7 Q. Can an OBI machine be used as a press
8 brake?

9 MR. ROBINSON: Say that again.

10 BY MR. HARTMAN:

11 Q. Can an OBI power press be used as a press
12 brake?

13 MR. ROBINSON: I'll object to the form. I
14 don't know what that means be used as a press
15 brake.

16 BY MR. HARTMAN:

17 Q. For forming material.

18 A. I presume it could be, yes.

19 Q. Are OBI machines and press brake uses
20 interchangeable?

21 MR. ROBINSON: Object to the form of the
22 question.

23 BY MR. HARTMAN:

24 Q. Can you use an OBI machine for the same

1 types of things that you can utilize a press brake
2 for?

3 MR. ROBINSON: Same objection.

4 THE WITNESS: You're making a very general
5 statement.

6 BY MR. HARTMAN:

7 Q. Explain to me what's the problem with my
8 question that you don't understand.

9 A. The -- my opinion would be a punch press
10 is used for applications for punching, stamping,
11 shallow draw forming, not so much for bending,
12 although it could be done as a bending operation in
13 there. But I would believe the intent of a press
14 brake is bending materials over a longer length,
15 which is not typically found in an OBI or OBS
16 press.

17 Q. When you say longer length, meaning the
18 width of the machine or longer length away from the
19 machine going in?

20 A. The bed area of the machine, typically a
21 press brake is a narrow bed that's, you know, 4
22 foot, 6 foot in length to bend narrow material over
23 that type of thing, not typically used in a punch
24 press operation.

1 Q. So if an OBI machine has a 4 foot, 6 foot
2 or 8 foot bed, would that be considered a brake
3 press then because the bed width performs the
4 ramming operation?

5 A. It would not be considered that. It would
6 still be considered a punch press.

7 Q. Punch press.

8 When you talk about the bed, we're talking
9 about the width, am I correct, not the depth or the
10 forefoot, it's the width or is it the length, what
11 do you call it?

12 MR. ROBINSON: Object to the form.

13 BY MR. HARTMAN:

14 Q. Could you tell me what 70-6, what is the
15 6, is it considered a width or a length?

16 A. It's considered a -- the right to left
17 dimension of the press.

18 Q. Okay. What is that called?

19 A. The length of the press.

20 Q. The length of the press from right to
21 left?

22 A. Right.

23 Q. Is there a certain size of part that is
24 being utilized with regard to a brake press that

1 would be considered too long to be put into the
2 brake press?

3 MR. ROBINSON: I'll object to the form. Any
4 particular --

5 BY MR. HARTMAN:

6 Q. Otherwise when you're going -- at the
7 throat?

8 A. You're talking about front to back?

9 Q. Yes. Is there a certain size of material
10 that you would not utilize a brake press for --
11 from front to back of the piece that's going into
12 the machine as too wide?

13 MR. ROBINSON: Which press brake?

14 BY MR. HARTMAN:

15 Q. A 70-6.

16 A. It would depend upon the dye that's in the
17 press. I can't answer -- the availability to the
18 dye space would be any length that's from the front
19 of the press brake to right to left to the throat
20 of the machine or I know I would expect that you
21 could put a piece as long as you wanted that would
22 fit through the throat of the machine. I mean, I
23 don't think there's a limit to it. You obviously
24 couldn't work the part back there, you're only

1 limited to the dye.

2 Q. So the size of the part being used on the
3 machine is limited to the dye size?

4 A. I would expect that to be the case.

5 MR. ROBINSON: I'll object to the form of that.
6 I'm not sure I follow what that means or how it
7 could be read later on.

8 BY MR. HARTMAN:

9 Q. The front to back piece, the front to back
10 depth of a piece that is being formed by the press
11 brake is limited by the size of the dye?

12 A. Correct.

13 Q. You wouldn't take a 10-foot piece and put
14 it in the machine if you had a dye that was a foot
15 and a half?

16 MR. ROBINSON: Hold on. I'm going to object.
17 That's not what he said. He said he doesn't think
18 there would be any limitation to the length of the
19 product, but the actual operation is limited to the
20 dye.

21 BY MR. HARTMAN:

22 Q. Is that correct?

23 A. That's correct.

24 Q. Okay. So when you talk about operation,

1 you're talking about the depth of the piece that's
2 being worked on by the press?

3 A. That's correct.

4 Q. The piece could be extended beyond the
5 machine as far as infinity to be practical?

6 A. Right.

7 Q. Got you.

8 A. Limited to the dye area that the work is
9 going to be performed.

10 Q. So you were distinguishing that by the
11 area that the dye is being worked on as opposed to
12 the size of the piece?

13 A. Correct.

14 Q. Okay. Mr. Robinson indicated in one of
15 his statements earlier that the machine was
16 supplied with a tool to hold work pieces while they
17 were being formed in the machine?

18 MR. ROBINSON: I didn't say that. I object to
19 the form of the question.

20 MR. HARTMAN: Are you saying that you didn't
21 say that?

22 MR. ROBINSON: I just said that I did not say
23 that.

24 MR. HARTMAN: You did?

1 MR. ROBINSON: Not in the way you said it. And
2 you don't need to put that into the question
3 anyways. It's misstating my statements.

4 MR. HARTMAN: I'm trying to accurately state
5 it. I have no reason to misstate it. My
6 understanding of your statement was is that when
7 you had a problem with my discussion of point of
8 operation protection on a 70-6, you said that there
9 are many things that could provide point of
10 operation protection.

11 MR. ROBINSON: Why don't you just ask your
12 question.

13 MR. HARTMAN: I want to clarify the record.
14 Including a device that's used to hold the part in
15 the machine while it's being formed.

16 MR. ROBINSON: That's more accurate as to what
17 I said before. I'm sorry, you said something
18 different, Mr. Hartman, than I said on the record.
19 You can smile all you want. Let me finish.

20 MR. HARTMAN: I'll let you finish, Paul.

21 MR. ROBINSON: So please don't take it in any
22 way other than me correcting what you said. I
23 didn't mention on the record what you initially
24 prefaced your question with, and that's all I did

1 was correct that. And now you've indicated
2 something different that I said that's not
3 accurate.

4 MR. HARTMAN: I haven't indicated anything
5 different. I'll get back to the question.

6 BY MR. HARTMAN:

7 Q. Was there a work piece holding device
8 supplied with the 70-6?

9 A. It's called a dye block.

10 Q. And what is a dye block?

11 A. A dye block is a piece of steel that has a
12 slot in it or a dye would be able to be placed into
13 it to hold it, otherwise there would be no means to
14 attach a dye to the press.

15 Q. It holds the dye to the press?

16 A. It provides positioning -- a place where
17 you can place a dye into the press.

18 Q. Okay. Is there anything that's supplied
19 with the 70-6 that the operator would use to hold a
20 piece while it's being worked on in the machine,
21 like tongs, for example, that's what I'm talking
22 about, something like a tong?

23 A. We do provide tongs for the press brake.

24 Q. I looked through all of the sales

1 material. Can you show me in the sales material
2 where it indicates that tongs are being supplied or
3 is it something that is standard with every press
4 brake?

5 A. I believe it's standard with every press
6 brake that's in this photo.

7 Q. Would you show me where the tongs --

8 A. You can see the chain here and the tongs
9 are on the top of the press. If you look at the
10 service manual as well, you'll see that here's the
11 chains and the tongs.

12 MR. ROBINSON: Why don't we mark this if we can
13 as Exhibit 3?

14 (Whereupon, Deposition

15 Exhibit No. 3 was marked for
16 identification.)

17 MR. ROBINSON: For the record what we have
18 marked as Exhibit 3 is a blowup of the photograph
19 that was taken of the particular press brake at
20 issue prior to its delivery and that is contained
21 in the sales file for this particular serial number
22 2176 press brake.

23 BY MR. HARTMAN:

24 Q. When I call it the 70-6, that means the

1 particular press brake in question, you understand
2 that?

3 A. That's what my assumption is, yes.

4 Q. On the photograph that you've provided me
5 the chain set up appears different -- in the
6 photograph of Exhibit 3 and the photograph on the
7 cover of Exhibit 2 indicated different chain set up
8 or is it the same chain set up just located
9 differently?

10 A. I believe it's the same chain set up, it's
11 just that it's just laying on top of the bed.

12 Q. What is the purpose of the tongs?

13 A. To be in consistent with our no hands and
14 dye that if you're going to handle a piece part for
15 a press brake you should use the tong instead of
16 any part of your body to go into the dye space.

17 Q. Okay. So Heim's no hands and dye point of
18 operation protection includes the provision of
19 tongs so that the worker does not operate the
20 machine holding the particular work piece with
21 their hands, rather they use the tongs?

22 A. We provide a hand tool, yes.

23 Q. So it's Heim's position that the worker
24 should not hold the work piece while its being

1 worked on in the press with utilizing your hands?

2 MR. ROBINSON: I'll object to the form of that
3 question, that's different than what he has just
4 said.

5 THE WITNESS: I believe the intent is to have
6 the operator holding up the piece part rather than
7 placing his hands in any proximity to the dye
8 space.

9 BY MR. HARTMAN:

10 Q. Holding the piece part with the tongs?

11 A. With the tongs, that's correct.

12 Q. So it's Heim's position that tongs are to
13 be utilized to hold the piece part in the machine
14 at all times?

15 A. We don't insist on it, it's up to the
16 customer's preference.

17 Q. But that's Heim's position?

18 MR. ROBINSON: I'll object to the form of the
19 question.

20 THE WITNESS: I'm not sure it's a position as
21 more of a devices to -- a device to prevent getting
22 into the dye space. What else can I say?

23 BY MR. HARTMAN:

24 Q. Accidentally?

1 A. Yeah, that's what I believe.

2 Q. So part of the no hands and dye
3 operational safety -- strike that.

4 As part of the no hands in the dye space
5 point of operation protection, you provide tongs so
6 that the operator never holds the work piece while
7 its being operated in the dye, am I correct?

8 MR. ROBINSON: Object to the form of the
9 question.

10 THE WITNESS: I believe that's correct.

11 MR. HARTMAN: Would you please tell me what
12 your -- what's the problem with the form of my
13 question?

14 MR. ROBINSON: You're implying that there's
15 never a situation where a worker would hold the
16 product itself which you know to be inaccurate.
17 And your question prefaces that by suggesting that
18 every product that runs through this machine is
19 held with the tongs rather than with the operator's
20 hands, and what Mr. Mase has indicated is that the
21 tongue is provided to not necessarily hold the
22 product at all times but to keep one's hands out of
23 the dye space. That was the problem I had with
24 your question.

1 MR. HARTMAN: That's not what he testified to.

2 BY MR. HARTMAN:

3 Q. But sir, again, the tongs are utilized to
4 hold the product, am I correct?

5 MR. ROBINSON: Object to the form. Are you
6 asking on all occasions or on some occasions?

7 MR. HARTMAN: Let's erase what Mr. Robinson
8 just said. I stick to my prior question, but I
9 want to ask you a couple of things.

10 BY MR. HARTMAN:

11 Q. Does Heim recommend -- strike that.

12 Does Heim see a situation where a worker
13 should hold the work piece while it's being
14 operated on by the ram on the dye with their hands
15 as opposed to utilizing tongs.

16 A. We believe that's a possibility for that.
17 And we would prefer someone to use a tong if that
18 was the case.

19 Q. The tongs make sure that the hands don't
20 go into the work space, am I correct?

21 A. That's what I believe the superior intent
22 is, yes.

23 Q. The no hands and dye point of operation
24 protection system requires the use of tongs if the

1 piece needs to be supported outside of the dye
2 area, am I correct?

3 A. If the operator chooses to do that. Like
4 I said, we're not involved with every specific
5 application, it's difficult to know every specific
6 application. But if the application was a case
7 where an operator was going to be operating with
8 his hands close to the dye in the dye space,
9 obviously we'd prefer them to use the tongs.

10 Q. Okay. Now, sir, at lunchtime did you have
11 the opportunity to make a determination as to
12 whether or not you can find the information
13 relating to the supplier of the foot pedal in
14 question that was supplied with this machine?

15 A. During lunch?

16 Q. Yeah.

17 A. No. No, I did not.

18 Q. Would you provide me with either -- with
19 the supplier, a sample of the foot pedal that was
20 supplied or the drawings of the foot pedal that was
21 supplied?

22 MR. ROBINSON: Say that again. What are you
23 asking for? He's not going to provide you
24 anything, I'll be providing you with it. So what

1 are you asking for?

2 MR. HARTMAN: I would like the supplier's name,
3 who supplied the foot pedal.

4 MR. ROBINSON: The foot pedal that came with
5 the press brake at the time of the sale?

6 BY MR. HARTMAN:

7 Q. The same foot pedal came with all of the
8 machines, am I correct?

9 A. It's my belief it's a commercially
10 available item. During that time frame we were
11 buying the product from someone, I don't know who
12 that was, but I imagine through the certain time
13 frames that was appropriate.

14 MR. ROBINSON: What is it you want, Dallas?
15 Tell me what you want.

16 MR. HARTMAN: I want to see what the foot
17 pedal?

18 MR. ROBINSON: What are you requesting from me
19 so that I can provide it?

20 MR. HARTMAN: I want to know who supplied it,
21 if you have a spec as to what the foot pedal was,
22 meaning length of cord, size.

23 MR. ROBINSON: You're saying a lot. Why don't
24 you put that in letter to me and I'll see what we

1 have. If you limit it to something that I can make
2 some notes on, now you're saying a whole litany of
3 issues. Let me know what it is you want and we
4 will do our best to make sure that we provide it
5 for you.

6 MR. HARTMAN: My request for production of
7 documents and things included that. I'll work it
8 out and get you more specifics now that we know.
9 Would you be willing to provide me with the foot
10 pedal that accompanies the current 70-6 brake
11 press?

12 MR. ROBINSON: Put that in a request.

13 MR. HARTMAN: Okay.

14 MR. ROBINSON: Tell me what relevance that
15 would have in the 2005 foot pedal to this case.

16 MR. HARTMAN: This witness doesn't know when
17 they first started using the modified foot press,
18 am I correct?

19 MR. ROBINSON: Pardon me? What testimony are
20 you giving now? That this witness doesn't know
21 when the modified foot pedal was --

22 MR. HARTMAN: Being utilized on a 70-6.

23 MR. ROBINSON: I don't know if that was the
24 prior testimony or not, I apologize.

1 BY MR. HARTMAN:

2 Q. Do you know when they changed the foot
3 pedal that accompanied the model 70-6 after this
4 70-6 was manufactured?

5 A. I don't know the time frame, no.

6 Q. Have you seen the foot pedal that I'm
7 discussing, the new foot pedal?

8 MR. ROBINSON: Which one, the current 2005 foot
9 pedal?

10 MR. HARTMAN: We don't know if it's on '05.

11 MR. ROBINSON: What are you asking for.

12 MR. HARTMAN: I'm asking if he has personally
13 observed the foot pedal that accompanies the 70-6
14 now.

15 MR. ROBINSON: That's 2005. I don't understand
16 why you had a problem with my request for
17 clarification. Go ahead, Mr. Mase.

18 THE WITNESS: I've seen it, yes.

19 BY MR. HARTMAN:

20 Q. Are they stocked by Heim?

21 A. Yes.

22 Q. Okay. Is the older version stocked by
23 Heim that accompanied the 70-6 that's part of this
24 lawsuit witness?

1 A. I don't know. I don't know if they have
2 any.

3 Q. Have you had the opportunity to see the
4 pictures of the machine that was involved in Tina
5 Lindquist's accident as it existed at the time of
6 the accident?

7 A. I saw a couple of pictures. There was
8 only like three or four pictures that I saw.

9 Q. Did you have the opportunity to see the
10 two palm button control system?

11 A. In a photo, yes.

12 Q. Okay. Is there anything in that photo
13 that you saw that would cause you concern with
14 regard to the safety of the operator at the point
15 of operation?

16 MR. ROBINSON: I'll object to the form of the
17 question. Don't answer that. I don't know what
18 photo you're talking about. You just used a whole
19 bunch of terms there that I have no idea what
20 you're asking. We're not answering that question.
21 If you want to show him a picture.

22 MR. HARTMAN: I'll be glad to, Paul.

23 MR. ROBINSON: I mean, that question would not
24 be used without a foundation of what picture we're

1 referring to.

2 MR. HARTMAN: I would assume that you would say
3 your client --

4 MR. ROBINSON: You shouldn't assume -- you
5 can't make that assumption in establishing a
6 foundation.

7 MR. HARTMAN: Can I please finish?

8 MR. ROBINSON: Sure.

9 MR. HARTMAN: You want the courtesy, I'd like
10 it too. I would assume you would show him accurate
11 photos of the control device as you saw it or it
12 existed. Those are the photos I provided.

13 MR. ROBINSON: For the record you have produced
14 to me 70 or 80 photographs of the press brake at
15 some point that I wasn't present and asked to be
16 present so I don't know what photographs you're
17 talking about.

18 MR. HARTMAN: Would you mark this -- do you
19 have an objection to marking this as 4 and then
20 referring to the pictures by number.

21 MR. ROBINSON: No, I don't have any objection
22 to that.

23 MR. HARTMAN: Would you mark that?

24 (Whereupon, Deposition

Exhibit No. 4 was marked for identification.)

3 BY MR. HARTMAN:

4 O. I want to show you photograph No. 32.

5 A. Okay.

6 Q. Okay. Can you make out the consul that's
7 in picture 32?

8 A. The black?

9. The consul with the button.

10 A. Yes.

11 Q. Does that look similar to the consul that
12 Heim supplies with its 70-6 if the customer so
13 desires?

14 A. NO.

15 Q. What type of functions are on the consul
16 supplied by Heim if a customer would have ordered
17 the two palm consul for the 70-6 involved in this
18 accident?

19 A. It would be two run buttons, they stop on
20 the top button, emergency stop button and the key
21 lock selector switch.

22 Q. And the key lock selector would be for
23 what?

A. To -- to supervisory switch for this

1 consul.

2 Q. And that would be so you could switch it
3 from foot pedal to two palm button?

4 A. That would be correct.

5 Q. And you called it a supervisory?

6 A. Selector switch.

7 Q. Because the supervisor is supposed to
8 control that, am I correct?

9 A. That's correct.

10 MR. ROBINSON: I'll object to the form of the
11 question. What supervisor are we referring to?

12 BY MR. HARTMAN:

13 Q. What level of supervisor are you aware of
14 is supposed to control this supervisor switch?

15 MR. ROBINSON: Are you referring to a
16 supervisor of any employer which may purchase these
17 press brakes at any time? Is that what you're
18 asking as opposed to a supervisor at Heim?

19 MR. HARTMAN: Paul, in all candor, if you knew
20 and read about this you'd understand that a
21 supervisory switch is a term of art and there's a
22 person that's designated under the rules for doing
23 that.

24

1 BY MR. HARTMAN:

2 Q. Sir, would you tell Mr. Robinson and
3 myself what a -- what level of supervisor is
4 supposed to control the switch?

5 MR. ROBINSON: No, he's not going to answer the
6 question as phrased, Mr. Hartman?

7 BY MR. HARTMAN:

8 Q. What is a supervisory switch?

9 A. A supervisory switch is a selector switch
10 that does not primarily let the operator choose an
11 operation for the press.

12 Q. Who's to choose that?

13 A. I would suspect it would be the person
14 that the operator reported to, and usually it would
15 be at least a shop foreman, I would think.

16 Q. And am I correct that OSHA requires the
17 supervisory switch on that control?

18 A. Correct.

19 Q. And OSHA discusses what a supervisor is,
20 am I correct?

21 A. Correct.

22 Q. And a supervisor has different functions
23 than the operator, am I correct?

24 MR. ROBINSON: Under OSHA.

1 MR. HARTMAN: Yes. Correct.

2 MR. ROBINSON: If you know, go ahead.

3 THE WITNESS: I don't know that. I would
4 assume so.

5 BY MR. HARTMAN:

6 Q. Okay. But --

7 A. Someone in authority.

8 Q. Right. Right. It's not operator though?

9 A. Right.

10 Q. What's the purpose of the supervisor
11 switch as opposed to it being an operator switch?

12 A. To prevent the operator to stop any mode
13 of operation that he chooses that would be under
14 the direction of his supervisor or her supervisor
15 to choose what the application to be used for that
16 particular day or time.

17 Q. With regard to a two palm consul, two palm
18 button consul, am I correct that other than the
19 supervisor switch and the emergency stop switch,
20 the only issue of concern as how the buttons are
21 laid out is that the two palm buttons are far
22 enough apart that a worker cannot operate both with
23 an elbow and a hand, am I correct?

24 MR. ROBINSON: I'll object to the form of the

1 question. The only area of concern, I have no idea
2 what you mean by that.

3 THE WITNESS: The spirit and intent is to avoid
4 any anti tie downs and put the switches in position
5 to make it extremely difficult for an average
6 person to have both buttons to press concurrently
7 to actuate the machine.

8 BY MR. HARTMAN:

9 Q. With the same hand or arm?

10 A. Or any device, foot, nose.

11 Q. So it would be far enough apart?

12 A. Right. Right.

13 Q. Are you aware of anything on the consul
14 that was attached to the 70-6 involved in this
15 accident that caused or contributed to
16 Mrs. Lindquist's accident?

17 A. There was not a consul provided.

18 Q. I'm talking about a particular consul.
19 Are you aware of anything related to this consul
20 that contributed to the accident Ms. Lindquist was
21 in?

22 MR. ROBINSON: I'll object and instructing him
23 not to answer. You're asking expert opinion
24 testimony, now it's something that he has not

1 evaluated. The press brake we all understand was
2 accompanied by a two palm button switch on a
3 Pedistal. And Mr. Mase has indicated that it was
4 not supplied by Heim and now you're seeking expert
5 opinion testimony and we're not here to provide
6 that.

7 MR. HARTMAN: Paul, the rules and the case law
8 indicates that a corporate designee can give
9 opinion testimony as it relates to issues involved
10 in their area of expertise.

11 MR. ROBINSON: You haven't established anything
12 along his expertise in telling you about two palm
13 buttons that he knows anything about the particular
14 Pedistal. He's not answering your question,
15 Mr. Hartman, as you phrased it.

16 MR. HARTMAN: Paul, you've established his
17 expertise because your client picked him to testify
18 today.

19 MR. ROBINSON: You're misconstruing the Rules
20 of Civil Procedure.

21 MR. HARTMAN: I did not pick him, you picked
22 him and he's here, he's indicated he's here to
23 testify with regard to all matters outlined.

24 MR. ROBINSON: No, that is not true either. We

1 raised a number of issues with your notice similar
2 to the interrogatories and request for production
3 that were filed, he's not going to give you expert
4 testimony on this issue. So you might as well --

5 MR. HARTMAN: I'm asking with regard to his
6 specific knowledge.

7 BY MR. HARTMAN:

8 Q. Do you see anything -- do you have any
9 knowledge -- with regard to you, do you have any
10 knowledge that the consul caused or contributed to
11 Ms. Lindquist's accident?

12 A. Can I see the picture again?

13 Q. Yeah.

14 A. I haven't seen this picture, but it
15 appears to be that the two round buttons are placed
16 in such a position that would prevent one hand or
17 one arm operating both buttons concurrently.

18 Q. In fact, at the time of the accident
19 Ms. Lindquist wasn't using the two palm switch?

20 A. I don't know that.

21 Q. If I tell you that then it would preclude
22 the consul from being a cause?

23 MR. ROBINSON: Why are you going through this
24 whole exercise of the two palm button switch? It

1 wasn't in use.

2 MR. HARTMAN: Because I'm free to determine all
3 the issues that I think are necessary.

4 MR. ROBINSON: How is this issue arguably
5 relevant or likely to lead to discovery of
6 admissible evidence?

7 MR. HARTMAN: Are you stipulating on the record
8 that you're not contending that the consul had any
9 involvement in this particular accident?

10 MR. ROBINSON: No, I'm not making any
11 stipulations. I wanted you to explain to me,
12 regardless what your theories may be, why this line
13 of inquiry is relevant or discoverable.

14 MR. HARTMAN: Because you're maintaining the
15 open door to contend that this consul may have
16 caused or contributed to the accident. If you shut
17 that door then I'll quit my questions with regard
18 to it.

19 MR. ROBINSON: You're making up theories,
20 you're making up doors, let's just continue
21 forward, please.

22 MR. HARTMAN: I will continue.

23 MR. ROBINSON: He's not going to answer any
24 questions on the appropriateness of the two palm

1 Pedistal and two palm switch that was not in use at
2 the time of this accident that he hasn't seen until
3 you've shown him these photographs.

4 BY MR. HARTMAN:

5 Q. On photograph number 31 and 32 there's a
6 foot switch, a foot pedal. Can you see that?

7 A. Yeah.

8 Q. Okay. From what is depicted in that
9 photograph does that foot pedal look like the basic
10 type of foot pedal that was in circulation in 1978?

11 MR. ROBINSON: I'll object to the form of the
12 question. Are you asking him if -- are you asking
13 him if that's the foot switch that was supplied
14 with this particular press brake?

15 MR. HARTMAN: My question is clear.

16 MR. ROBINSON: No, your question isn't clear,
17 that's the problem. Does it have the appearance,
18 the basic appearance of the type that was in use in
19 the trade in 1978?

20 MR. HARTMAN: Yeah.

21 MR. ROBINSON: Object to the question. You
22 don't need to answer that question.

23 BY MR. HARTMAN:

24 Q. Can you answer that question?

1 MR. ROBINSON: He's not going to. I think that
2 question is too broad, too vague and misleading.
3 Why don't you --

4 MR. HARTMAN: We're going to be here until
5 7:00.

6 MR. ROBINSON: You've used that threat before,
7 Mr. Hartman. If you truly think we will be here
8 we'll this play out. I think it's a threat to try
9 to get us to answer questions that are
10 objectionable.

11 MR. HARTMAN: I'm trying to get things done.

12 MR. ROBINSON: You've mentioned that belief.

13 BY MR. HARTMAN:

14 Q. With regard to the length of the cord
15 depicted on the photographs 31 and 32 that's
16 attached to the foot pedal, is that basically the
17 size of the cord that you had seen utilized in foot
18 pedals in the past?

19 MR. ROBINSON: Object to the form. You can
20 answer.

21 THE WITNESS: It appears to be a typical
22 length.

23 BY MR. HARTMAN:

24 Q. What color were the foot pedals that were